

Delegated Decision

Sign off Sheet

Ref. No:	DM/25/1354	Case Officer:	Joanne Fisher
Application Type:	Full Application		
Proposal:	Proposed new 1 bed, two-person semi-detached dwelling.		
Site:	Land North Of 24 Oak Hall Park, Burgess Hill, West Sussex, RH15 0BX, , , ,		
Validation Date	23 Jun 2025	Overall Expiry Date:	21 Jul 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Refusal	Recommendation Date:	14 Aug 2025
Target Date:	18 Aug 2025	Recommending Officer Signature:	Joanne Fisher

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Steven King	Date:	15 Aug 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/25/1354

**Land North Of 24 Oak Hall Park, Burgess Hill, West Sussex, RH15 0BX, , ,
Proposed new 1 bed, two-person semi-detached dwelling.
Mr George Baxter**

SUMMARY OF REPRESENTATIONS

None received

SUMMARY OF CONSULTEES

WSCC Highways Authority

No objection subject to condition on cycle parking.

MSDC Tree Officer

No objection.

MSDC Drainage

Objection.

- o A Sequential Test has not been provided.
- o Site drainage
- o Southern Water have said there is no capacity in the sewer.

Ecologist

No objection, recommend conditions

Southern Water

Comments on soakaways and tree planting.

Street Naming and Numbering Officer

Recommend informative

TOWN COUNCIL OBSERVATIONS

The Committee of 14th July would Recommend refusal.

The Committee felt the application contravened:

Burgess Hill Neighbourhood Plan:
H2 - Back Garden Development

Mid Sussex Design Guide:
DG18 - Integrate Parking to Support Attractive Streets and Spaces
DG19 - Provision of Off-street Parking

Mid Sussex District Plan:

DP26 - Character and Design

The Committee expressed concern that this development would create a terraced housing situation in an area that doesn't currently have terraced houses, and it was felt that this is detrimental to the street scene.

INTRODUCTION

The application seeks planning permission for a new 1 bed, two-person semi-detached dwelling to the north of 24A Oak Hall Park, Burgess Hill.

RELEVANT PLANNING HISTORY

DM/21/2795 - Demolition of an existing side extension to no 24 Oak Hall Park and the construction of new 2 bedroom detached dwelling with access driveway. Refused and dismissed at appeal under reference AP/22/0021.

DM/22/3045 - Double storey side extension. Approved. This extension was in relation to 24 Oak Hall Park.

DM/23/1926 - Alterations to side extension to allow for a change of use to a separate 1 bed two person dwelling. AMENDED PLANS received 13/09/2023 creating front door to the front elevation and re-siting fence in rear garden to create subdivision of garden. Approved.

DM/23/3067 - Construction of a two storey side extension. Formation of a new vehicle crossover and parking. Withdrawn.

DM/24/2652 - Construction of new highway crossover, vehicular access and single parking bay. Approved.

SITE AND SURROUNDINGS

24A Oak Hall Park is a two-storey semi-detached dwelling constructed of external materials comprising brown facing brick and brown hanging tile walls, brown concrete roof tiles, white guttering and white uPVC windows and doors. This dwelling was formed from a previously approved two storey side extension that has been constructed to the north of the dwelling. The dwelling is occupied and currently provides no off-road parking.

The site subject of the proposal forms the side and part of the rear garden of this new dwelling. It is enclosed on the boundaries by close boarded fencing.

Properties on the estate benefit from on-street parking and there are on-street parking restrictions on Oak Hall Park Monday to Saturday between 8am and 6pm. To the west of the site is Burgess Hill train station, with Burgess Hill town centre lying beyond this to the north-west.

There is a footpath linking Oak Hall Park and the train station lying adjacent to the northern boundary of the application site. This footpath connects to a public right of way (route no. 17BH) which runs adjacent to the western boundary of the site and follows a route from Station Road travelling south through the station and along a footpath between the trainline to the west and the residential estate to the east.

Beyond the northern boundary and footpath are trees and vegetation.

The application site is situated within the built-up area as defined in the Mid Sussex District Plan and the Burgess Hill Neighbourhood Plan.

APPLICATION DETAILS

The proposal would form a new two-storey attached dwelling to the side of the recently constructed dwelling no. 24A Oak Hall Park. This would result in the formation of a terrace of three properties.

The new dwelling would be set back from the frontage of no. 24A by some 1.5 metres. To the rear elevation the new property would extend some 1.5 metres out from the rear fall of no's 24 and 24A. The dwelling would measure some 8.6 metres in length, 4.1 metres in width. On the side elevation would be a double pitched element with a maximum eaves height of 4.8 metres and an overall ridge height of some 7 metres. The front of the dwelling would be set down at a lower ground level from that of 24 and 24 A and subordinate to the ridge line of these properties by some 0.6 metres. The dwelling would be constructed in brick with tile hanging at first floor and a tiled roof to match the existing dwelling. On the front elevation would be a canopy flat roofed porch.

The dwelling would comprise of an open plan kitchen, dining and lounge with a toilet at ground floor with a double bedroom and study at first floor.

The proposal would result in a car free development with covered cycle parking to the side of the dwelling.

Plans show that the existing boundary fence to the side and rear would be retained with new laurel hedging planted in front.

LEGAL FRAMEWORK AND LIST OF POLICIES

Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Specifically, Section 70 (2) of the Town and Country Planning Act 1990 states:

'In dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to application, and*
- b) Any local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

'If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

The requirement to determine applications "in accordance with the plan" does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations Development Plan Document (DPD) and the Burgess Hill Neighbourhood Plan.

National policy (which is contained in the National Planning Policy Framework (NPPF) and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

Mid Sussex District Plan

The District Plan was adopted at Full Council on 28th March 2018.

Relevant policies:

DP6 - Settlement Hierarchy

DP21 - Transport

DP26 - Character and Design

DP27 - Dwelling Space Standards

DP37 - Trees, Woodland and Hedgerows

DP38 - Biodiversity

DP39 - Sustainable Design and Construction

DP41 - Flood Risk and Drainage

DP42 - Water Infrastructure and the Water Environment

Site Allocations DPD

The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

There are no relevant policies.

Burgess Hill Neighbourhood Plan

The Burgess Hill Neighbourhood Plan was made in 2016.

Relevant policies:

S4 - Parking Standards for new developments

Other Material Considerations

Mid Sussex District Plan 2021 - 2039 - Submission Draft (Regulation 19)

The District Council is reviewing and updating the District Plan. Upon adoption, the new District Plan 2021 - 2039 will replace the current District Plan 2014-2031 and its policies will have full weight. In accordance with the NPPF, Local Planning Authorities may give weight to relevant policies of the emerging plan according to the stage of preparation; the extent to which there are unresolved objections to the relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. The draft District Plan 2021-2039 (Regulation 19) is currently at Examination and the stage 1 hearings were concluded on the 31st October 2024. There are unresolved objections to some of the Policies in the draft District Plan and as such, only minimal weight can be given to the Plan and this planning application has been assessed against the policies of the adopted District Plan.

Relevant policies:

Mid Sussex Design Guide Supplementary Planning Document (SPD)

The Council has adopted a 'Mid Sussex Design Guide' SPD that aims to help deliver high quality development across the district that responds appropriately to its context and is inclusive and sustainable. The Design Guide was adopted by Council on 4th November 2020 as an SPD for use in the consideration and determination of planning applications. The SPD is a material consideration in the determination of planning applications.

West Sussex County Council Guidance on Parking at New Developments - September 2020

National Planning Policy Framework (NPPF) (December 2024)

The NPPF sets out the government's policy in order to ensure that the planning system contributes to the achievement of sustainable development. Paragraph 8 sets out the three overarching objectives to sustainable development, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). The three objectives are economic, social and environmental.

Paragraph 9 of the NPPF states *'these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.'*

Paragraph 11 of the NPPF sets out that for both plan-making and decision-taking, the presumption in favour of sustainable development should apply.

Paragraph 12 of the NPPF states;

'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'

Paragraph 39 of the NPPF states;

'Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.'

With specific reference to decision-taking paragraph 48 states that planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

National Design Guide

Published in 2021, the National Design Guide illustrates how the government consider well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice.

Paragraph 134 of the NPPF sets out that this national document, along with the National Model Design Code, should be used to guide decisions on application in the absence of locally design guides or design codes.

Technical Housing Standards

ASSESSMENT

It is considered that the main issues that need to be considered in the determination of this application are as follows;

- The principle of development
- Design and Impact on the character of the area
- Impact on the amenities of neighbouring properties
- Impact on future occupants of the development
- Impact on parking provision
- Trees
- Sustainability
- Drainage
- Ashdown Forest
- Biodiversity Net Gain
- Planning Balance and Conclusion

Principle of Development

As noted above, planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

In terms of policy designations, the starting point for this assessment is that the application site falls inside of the built-up area of Burgess Hill as defined by the District Plan.

As the proposed development is within the built-up area of Burgess Hill, the principle of additional windfall housing development is acceptable under Policy DP6 of the District Plan which states:

'Development will be permitted within towns and villages with defined built-up area boundaries. Any infilling and redevelopment will be required to demonstrate that it is of an appropriate nature and scale (with particular regard to DP26: Character and Design) and not cause harm to the character and function of the settlement.'

In addition to the above, Burgess Hill is classed as category 1 settlement in the settlement hierarchy listed under MSDP policy DP6. As such, the application site is considered to be a sustainable location for residential development.

Paragraph 232 clarifies that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Paragraph 11 of the NPPF sets out that plans and decisions should apply a presumption in favour of sustainable development, and states;

'For decision-taking this means;

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development policies, or the policies which are most important for the determining the application are out-of-date, granting planning permission unless;

i. The application of policies within this Framework that protect areas of assets of particular importance provides a strong reason for refusing development proposed; or

ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.'

Footnote 7 of paragraph 11(i) clarifies that the policies referred to are those in this Framework (rather than those in development plans) and relate to habitats sites (and those and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets and other heritage assets of archaeological interest; and areas at risk of flooding or coastal change.

Footnote 8 of paragraph 11 clarifies that for applications involving the provision of housing, in situations where the local planning authority cannot demonstrate a five year land supply of delivery housing sites (with an appropriate buffer) or where the Housing Delivery Test indicates that delivery of housing has been substantially below (less than 75%) of the housing requirement for the last three years, then relevant policies for the supply of housing should be considered out-of-date.

Having regard to the above, while the Council has performed excellently in respect of the Housing Delivery Test, a new standard method formula was published alongside the NPPF which gives Mid Sussex a significantly higher housing requirement than the current District Plan. As a result, and having regard for the need for an appropriate buffer, the Council is unable to demonstrate a five year supply of deliverable housing sites as per the requirements of paragraph 78 of the NPPF.

In light of the above, this development needs to be considered in the context of the presumption in favour of sustainable development. If a development is found to be sustainable, that would weigh heavily in favour of granting permission in the paragraph 11(d) balance. If however the development is not found to be sustainable, that is not the end of the matter; the Local Planning Authority still need to go through the weighing up process between the positive benefits of the scheme against any harm that may be caused, having particular regard for the key policies indicated in paragraph 11(d)(ii).

As part of this process, the weight to be given to development plan policies will need to be assessed against the degree of conformity with the NPPF.

Policies DP4 (Housing) and DP6 (Settlement Hierarchy) are relevant to this application. These policies are considered to be policies relating to the supply of housing and as such can be considered to be out-of-date, having regard to the NPPF tests. As such, these policies can be given limited weight in the determination of the application.

Therefore the key test that must be undertaken when assessing this application is as set out within paragraph 11(d) of the NPPF.

The following sections of the report will consider the relevant matters associated with the proposed development in the context of the development plan and other material considerations, including the NPPF in order to undertake the necessary tilted balance assessment outlined above.

Assessment

Design and Impact on the character of the area

Policy DP26 of the District Plan relates to character and design and requires all proposals to be well designed and reflect the distinctive character of the towns and villages while being sensitive to the countryside as well as addressing the character and scale of the surrounding buildings and landscape. In part the policy requires proposals to be of a high quality design and layout and includes appropriate landscaping and greenspace; and creates a sense of place while addressing the character and scale of the surrounding buildings and landscape.

Paragraphs 131 and 135 of the NPPF state:

'131. The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

135. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;*
- and*

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'

Within the Design Guide there is support for high quality buildings that minimise their environmental impact under principle DG37. Principle DG38 requires architectural integrity and a sense of place where the façade and elevational treatment, roofscape fenestration and materials used in existing buildings within the locality should be a starting point for the consideration of architectural design of new buildings.

24 and 24A Oak Hall Park now forms a semi-detached dwelling by virtue of a recently constructed two-storey extension which was changed to a 1-bed dwelling under planning reference DM/23/1926. The site is set on a corner plot at the end of the housing development of Oak Hall Park. This current proposal would result in the site forming a terrace development with the proposed new dwelling set back from the front elevations of 24 and 24A. Whilst the new dwelling would be set back from the frontage it would be apparent and highly visible from the northern part of Oak Hall Park including at the turning head and the footpaths that bound the site to the north and west and the Burgess Hill Station car park.

There are no terraced developments within Oak Hall Park with properties comprising mainly of detached and link detached dwellings with no 24 the only property in this section of the road forming a semi-detached. It is considered that the additional width facing Oak Hall Park and the creation of a terrace to originally a link detached property would form an incongruous and detrimental impact on the character and appearance of the street scene.

The addition is set back from the existing frontage, set at a lower level than the highway, subordinate to the ridge line and would continue the design and materials of the existing dwellings. However, it is considered that the proposal in combination with the extension to which it is to join forms a long roof expanse which would be out of proportion with the original house of no. 24. In addition, due to the cumulation of the proposed dwelling and that already constructed, the proposal overwhelms the original building and would form an unacceptable and a discordant feature in this context with reference to the layout and appearance in the street scene.

As such it is considered that the proposal would conflict with Policy DP26 of the District Plan, the principles of the Mid Sussex Design Guide and the requirements of the NPPF.

Impact on the amenities of neighbouring properties

Policy DP26 of the District Plan relates to character and design of proposals. Within this there is a requirement that proposals do *'...not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution'*.

The proposed dwelling is to extend some 1.5 metres further out to the rear than the existing property 24A with a two-storey high flank wall. This existing neighbour has a ground floor window to the rear to serve the existing open plan kitchen area and a first-floor window serving a study. Whilst there would be oblique views of this flank wall extending further in depth, it is considered that this would not result in a significant overbearing impact or a loss of light to these rooms.

As the dwelling is set back from the turning head at a lower level some 26 metres from no 22 Oak Hall Park opposite. As such it is considered that the proposal would not result in significant harm to the amenities of this dwelling through overlooking, a loss privacy, an overbearing impact or a loss of light.

The proposal is therefore not considered to cause significant harm to amenities of neighbouring properties and would thereby comply with this part of policy DP26 of the District Plan in respect of this matter.

Impact on future occupants of the development

The Government's Technical Housing Standards - Nationally Described Space Standards document was published in March 2015 and replaced the Council's adopted Dwelling Space Standards Supplementary

Planning Document on 1st October 2015. It sets out space standards for all new residential dwellings, including minimum floor areas and room widths for bedrooms and minimum floor areas for storage, to secure a satisfactory standard of accommodation for future residents.

The proposal is to provide a 1-bed dwelling with a study. The study (at first floor) has an internal floor area of some 10.5 sqm (including built in storage space), as this exceeds the minimum internal floor area of a single bedroom, the property should be considered as a 2-bed dwelling and not a 1-bed. As such, the proposal is to form a 2-bed, 3-person dwelling.

The National Dwelling Space Standards requires such dwellings to provide a minimum internal floor area of some 70 square metres. Officer calculations indicate that the proposal would fall significantly below the required floor space standards and therefore conflict with policy DP27 of the District Plan and the National Dwelling Space Standards.

Impact on parking provision

Policy DP21 of the District Plan seeks to ensure that schemes are sustainably located to minimise the need for travel, and protect the safety of road users and pedestrians, and seeks to provide adequate parking in relation to development proposals.

Paragraph 115 of the NPPF is relevant in respect of transport matters and states that:

'In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'*

In addition, para 116 states *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

The proposal would result in a car-free development with covered cycle parking to the side of the property for both 24A and the new dwelling. Pedestrian access would be achieved via the existing footway along the northern boundary shared with 24A Oak Hall Park.

The Highways Authority has considered the proposal and raise no objection. They consider that the addition of a single dwelling would not be anticipated to give rise to a significant material increase in movements on the local highway network. As such they conclude that the proposal would not result in 'severe' cumulative impacts on the operation of the highway network.

It is acknowledged that the site is within a sustainable location close to the town centre and the train station. It is considered that the house being car free would be acceptable.

Consequently the proposal is considered acceptable on highway safety and transport grounds, and complies with policy DP21 of the District Plan, and para 115 of the NPPF.

Trees

Policy DP37 of the District Plan states in part that the *'District Council will support the protection and enhancement of trees, woodland and hedgerows, and encourage new planting. In particular, ancient woodland and aged or veteran trees will be protected.'*

To the north of the site beyond the footpath which lies adjacent to the site boundary are a number of trees. An Ash tree and Oak tree to the north outside the application site are subject to a tree Preservation Order (TP/21/0005)

An Arboricultural Impact Assessment accompanies the application. This sets out that no trees are present within the grounds of No. 24 or 24A Oak Hall Park. In addition it advises that no trees require removal or tree surgery works for the proposed development to proceed. In addition, it sets out that none of the proposals relating to the proposed house overlap with any tree RPAs. There are therefore no adverse impacts on tree root systems.

The Council's Tree Officer has considered the proposal and raises no objection.

The proposal is thereby considered to comply with policy DP37 of the District Plan.

Sustainability

Policy DP21 of the District Plan relates to transport and requires schemes to be '*sustainably located to minimise the need for travel*' and take '*opportunities to facilitate and promote the increased use of alternative means of transport to the private car, such as the provision of, and access to, safe and convenient routes for walking, cycling and public transport, including suitable facilities for secure and safe cycle parking*'. In addition it requires where '*practical and viable, developments should be located and designed to incorporate facilities for charging plug-in and other ultra-low emission vehicles.*'

In addition, policy DP39 of the District Plan relates to Sustainable Design and Construction and requires development proposals to improve the sustainability of development and should where appropriate and feasible according to the type and size of development and location, incorporate measures including minimising energy use through the design and layout of the scheme; maximise efficient use of resources, including minimising waste and maximising recycling/re-use of materials through both construction and occupation; and also to limit water use to 110 litres/person/day.

Paragraph 161 of the NPPF states:

'The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.'

A Sustainability Statement has been included within the submitted Design and Access Statement which accompanies the application. This sets out that the new property will incorporate the following: high standards of roof wall and floor insulation, an air source heat pump, solar panels (two west facing roof slope) a battery and taps to limit water wastage. It is noted however that the submitted plans do not detail the solar panels on the western (rear) roof slope. Although details of this could be controlled by a condition.

The proposal would be a car-free development which would seek to reduce carbon emissions. Plans show that the proposal would provide cycle storage to the side of the dwelling.

The proposal is thereby considered to comply with Policies DP21 and DP39 of the District Plan.

Drainage

Policy DP41 relates to flood risk and drainage and requires development to demonstrate it is safe across its lifetime and not increase the risk of flooding elsewhere. It states in part that:

"Proposals for development will need to follow a sequential risk-based approach, ensure development is safe across its lifetime and not increase the risk of flooding elsewhere. The District Council's Strategic Flood Risk Assessment (SFRA) should be used to identify areas at present and future flood risk from a range of sources including fluvial (rivers and streams), surface water (pluvial), groundwater, infrastructure and reservoirs.

Particular attention will be paid to those areas of the District that have experienced flooding in the past and proposals for development should seek to reduce the risk of flooding by achieving a reduction from existing run-off rates.'

Para 170 of the NPPF relates to planning and flood risk and states:

'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.'

The Planning Practice Guidance for Flood Risk and Coastal Change requires all sources of flood risk to be considered consistently with how fluvial and tidal flood risk is considered within the National Planning Policy Framework. This means that surface water flood risk extents should be considered comparable to flood zones when assessing a development's vulnerability to flooding and the need for a site-specific flood risk assessment.

The Risk of Flooding from Surface Water mapping suggests the site is shown to be at low surface water flood risk (comparable to flood zone 2) for the present day (2025) and to be at medium surface water flood risk (comparable to flood zone 3a) within the climate change range of 2040 - 2060. The proposed development is classed as a 'more vulnerable' development (NPPF, Annex 3) as it is a dwelling.

Para 173 of the NPPF states:

'A sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding, by following the steps set out below.'

A Flood Risk Assessment accompanies the application. This sets out that the overall fluvial flood risk can be considered as 'very low' and that flooding from groundwater is unlikely in this area. In addition, a drainage statement has been submitted. This sets out that the proposed foul arrangement comprises the minor reconfiguration of the foul (combined) drain to the rear, with an extension to serve the new dwelling. In terms of surface water drainage, the proposed roof & patio catchment areas are to be taken to a new private packaged pump chamber, which pumps approx. 28m in length & approx. 1.6m head difference to a new chamber within Oak Hall Park (public highway). The pumped rising main is to connect to the new chamber at 90° with benching, which then routes approx. 20m through a new 150mm VC drain within the highway. The new chamber & VC drain run are to be to adoptable standards with prior approval from southern water to be sought.

The Council's Drainage Consultant has assessed the proposal and has raised an objection in relation to a Sequential Test not being provided, site drainage and Southern Water advising that there is no capacity in the sewer. They advise that the submitted Flood Risk Assessment incorrectly states that the proposal will not be subject to the Sequential Test because the site is located within Flood Zone 1 for fluvial/tidal flooding. However, the updated Environment Agency Risk of Flooding from Surface Water mapping (NaFRA2, 2025) identifies that the site lies within Flood Zone 3a for surface water flooding in the 2040-2060 climate change scenario. In accordance with the NPPF, PPG, and MSDC's approach, this requires the Sequential Test to be applied to steer development to areas with the lowest flood risk.

The Planning Practice Guidance (PPG) in relation to flood risk and coastal change reiterates the Sequential Test should be applied to all sources of flooding, including surface water, groundwater and sewer flooding, in addition to fluvial and tidal risk. In addition it states that *'Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied.'*

As the Sequential Test has not been undertaken to show whether there are reasonably available sites appropriate for the proposal in areas with a lower risk of flooding compared to this site, the Flood Risk and Drainage Team therefore object to the proposed development. They consider that due to the absence of evidence within the application to demonstrate that the site would pass the Sequential Test that proposal should be not currently permitted. As the sequential test is a requirement within the NPPF and PPG for all sources of flooding which includes surface water, it is considered that the application is contrary to the requirements of National Guidance.

Whilst no sequential test has been provided, as the site is for 1 dwelling within the district, it is considered that there are likely to be reasonably available sites with a lower risk of flooding so that the sequential test would likely fail. In terms of 'reasonably available' this means sites in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered 'reasonably available'.

In terms of drainage details, the Councils Drainage Consultant agrees in principle to surface water drainage design. However, they consider that further drainage calculations should be provided to demonstrate that the site would discharge at 0.4l/s for the 1 in 100-year storm event plus 45% climate change allowance without attenuation. Notwithstanding this, it is considered that such drainage details could be dealt with by a condition if the application were to be approved.

Concerns have also been raised by the Councils Drainage Consultant in respect of foul water drainage as they note that Southern Waters comments indicate that the additional foul flows from the development may lead to a minor increased risk of impact on the sewer network. Therefore, a suitable discharge location for foul water has not been provided. Whilst this concern is noted, this would be a matter separate to planning and between Southern Water and the applicant should permission be forthcoming. As such this is not considered to be a reason for refusal in respect of this scheme.

In light of the above concerns in relation the site within an area of high risk surface water flooding, and that a sequential test has not been undertaken, the proposal thereby conflicts with Policy DP41 of the District Plan.

Ashdown Forest

Under the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'), the competent authority - in this case, Mid Sussex District Council - has a duty to ensure that any plans or projects that they regulate (including plan making and determining planning applications) will have no adverse effect on the integrity of a European site of nature conservation importance. The European site of focus is the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

The potential effects of development on Ashdown Forest were assessed during the Habitats Regulations Assessment (HRA) process for the Mid Sussex District Plan 2014-2031. This process identified likely significant effects on the Ashdown Forest SPA from recreational disturbance and on the Ashdown Forest SAC from atmospheric pollution.

A Habitats Regulations Assessment has been undertaken for the proposed development.

Recreational disturbance

Increased recreational activity arising from new residential development and related population growth is likely to disturb the protected near-ground and ground nesting birds on Ashdown Forest.

In accordance with advice from Natural England, the HRA for the Mid Sussex District Plan 2014-2031, and as detailed in District Plan Policy DP17, mitigation measures are necessary to counteract the effects of a potential increase in recreational pressure and are required for developments resulting in a net increase in dwellings within a 7km zone of influence around the Ashdown Forest SPA. A Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) mitigation approach has been developed. This mitigation approach has been agreed with Natural England.

The proposed development is outside the 7km zone of influence and as such, **mitigation is not required.**

Atmospheric pollution

Increased traffic emissions as a consequence of new development may result in atmospheric pollution on Ashdown Forest. The main pollutant effects of interest are acid deposition and eutrophication by nitrogen deposition. High levels of nitrogen may detrimentally affect the composition of an ecosystem and lead to loss of species.

The proposed development was modelled in the Mid Sussex Transport Study as a windfall development such that its potential effects are incorporated into the overall results of the transport model, which indicates there would not be an overall impact on Ashdown Forest. Additionally, based on analysis of Census 2011 data, the proposed development is not likely to generate travel to work journeys across Ashdown Forest. This means that there is not considered to be a significant in combination effect on the Ashdown Forest SAC by this development proposal.

Conclusion of the Habitats Regulations Assessment

The Habitats Regulations Assessment concludes that there would be no likely significant effects, alone or in combination, on the Ashdown Forest SPA and SAC from the proposed development. No mitigation is required in relation to the Ashdown Forest SPA or SAC.

A full HRA (that is, the appropriate assessment stage that ascertains the effect on integrity of the European site) of the proposed development is not required.

Biodiversity Net Gain

In terms of BNG the Council's Ecology Consultant has considered the proposal and advises that this application is exempt from mandatory biodiversity net gains under The Biodiversity Gain Requirements (Exemptions) Regulations 2024. They consider that *'the baseline can be classified as 'developed land; sealed surface' and 'unvegetated garden', which results in the pre-development baseline containing a score of '0' units. As a result, the de-minimis exemption would apply in this instance and no further mandatory BNG considerations is required.'*

Biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. Under the statutory framework for biodiversity net gain this application comprises development below the de-minimis threshold meaning that this development is exempt from providing biodiversity net gain.

Other matters

The Town Council has objected to the proposal in respect of Policy H2 of the Neighbourhood Plan. This relates to back garden development. The proposal is to be to the side garden of 24A Oak Hall Park. The pre-text to this policy states that in order *'to preserve these areas from inappropriate back garden development, this policy seeks to control further infill to prevent over development. Back garden development is considered to be 'development of landlocked sites' behind existing buildings (usually houses), such as rear gardens and private open space, usually within predominantly residential areas. Such sites often have no street frontages'*. Footnote 6 to this pre-text states that this does not include infill sites which are defined as sites within street frontages such as small workshops and garages, gaps in terraces and gardens to the side of houses or backland sites defined as sites to the rear of street frontages not historically in garden use such as builders' yards and garages. As such, whilst the side garden area forms the main garden to the existing property of 24A, as it is to the side and there is some street frontage, this policy therefore does not apply.

Water supply

Policy DP42 states in part that proposals that increase the demand for offsite service infrastructure will be permitted where the applicant can demonstrate that there is adequate water supply to serve the development.

The Agent has provided evidence that Southern Water will be supplying water to the property.

In light of this, it is considered that policy DP42 in the MSDP is addressed.

PLANNING BALANCE AND CONCLUSION

Planning legislation requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. It is therefore necessary for the planning application to be assessed against the policies in the Development Plan and then to take account of other material planning considerations including the NPPF. The Development Plan in this instance consists of the Mid Sussex District Plan, the Site Allocations Development Plan Document and the Burgess Hill Neighbourhood Plan.

For the reasons set out within the assessment section, it is considered that the application complies with Mid Sussex District Plan policies DP21, DP37, DP38, DP39 and DP42.

The application must be assessed against the policies of the development plan taken as a whole and this assessment has identified conflict with the development plan. The proposal conflicts with policies DP26, DP27 and D41 in respect of character and design, dwelling space standards and flood risk.

As a result, it is considered that the application conflicts with the development plan when read as a whole. This is not the end point as planning law requires that 'where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise'.

As the Council is currently unable to demonstrate a five year supply of deliverable housing sites, it follows that the relevant policies for the supply of housing from the development plan are out-of-date (footnote 8 of paragraph 11 NPPF). As such, reduced weight should be given to these policies.

It has been identified that the proposals conflict with planning policies associated with flood risk and this carries significant weight against the scheme. Although the Council cannot currently demonstrate a five-year supply of deliverable housing sites, the proposal would conflict with policies of the Framework in relation to areas of risk of flooding. The application of these policies provides a strong reason for refusal (para 11d(i)), and as such the presumption in favour of sustainable development in terms of para 11d(ii) of the NPPF (the tilted balance) does not apply in this case.

The proposed dwelling would result in a terraced development which due to the cumulation of the proposed dwelling and that already constructed, would overwhelm the original building and form an incongruous and detrimental impact on the character and appearance with reference to the layout and appearance in the street scene.

In addition, the dwelling would fall significantly below the Council's adopted dwelling space standards for a 2-bed property and would therefore provide a sub-standard form of accommodation for future occupiers.

When judged against policies relating to character and design and space standards, the development proposed would conflict with policies DP26 and DP27 of the District Plan.

These factors weigh heavily against the proposal.

On the positive side the provision of a net increase in 1 No. dwelling within a sustainable location will make a limited, but positive, contribution to the district's housing supply. The proposal would also result in construction jobs over the life of the build and the increased population likely to spend in the community. Because, however, of the small scale of the development proposed these benefits would have limited weight.

The proposal would also result in a new homes bonus.

There would be a neutral impact on highways, drainage and ecology.

In weighing up these issues, when taken together, it is considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal.

Overall, the planning balance is considered to fall significantly in favour of refusing planning permission.

Decision: Refusal

Case Officer: Joanne Fisher